

SAPC-5778
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OGC Has Reviewed

30 April 1956

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MEMORANDUM FOR : [REDACTED]

SUBJECT : Applicability of Renegotiation Act to
SP-1913 and Subcontracts

1. We have reviewed the Renegotiation Act for various problems. The specific items considered are as follows:

- a. Is the Agency exempt from the Act by its terms or must we rely on Agency authorities?
- b. If 1913 is not subject to the Act, are the subcontracts also exempt?
- c. If the subcontracts are not subject to renegotiation, is it appropriate that the Agency request the prime contractor to advise his subcontractors to the contrary?

2. The Renegotiation Act of 1951, as amended (50 USCA Section 1211 et. seq.) applies to all contracts and related subcontracts entered into by those departments specifically named in Section 1212 or by those which pursuant to that Section may be designated by the President. An examination of Section 1212 and of the Executive Orders issued thereunder fails to disclose any reference to the Central Intelligence Agency. Thus, it may be concluded that this Agency's contracts are not subject to the Renegotiation Act and that the utilization of Section 10(b) authority for exemption purposes is not necessary. The Renegotiation Board's regulations (32 C.F.R. Chap. XIV, Part 1452.4) further indicate that the subcontracts with which the Act is concerned are limited to those entered into for the performance of a renegotiable prime contract. Consequently, it is our view that the subcontracts are not subject to the Renegotiation Act. Under these circumstances it would be inappropriate for the Agency to advise the prime contractor to indicate to the contrary to his subcontractors. I understand that the form purchase orders being used for the prime do include a clause

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stating that the subcontracts are subject to renegotiation although the forms do not reference any Government contract number. I further understand that this was based on oral instructions from the Agency. As a pure legal matter, however, the prime either should delete the renegotiation clause in their purchase order forms or otherwise clearly indicate to subs that their contracts are not subject to renegotiation and that they should not report such contracts to the Renegotiation Board.

3. I am sure you are aware that subcontracts for less than \$25,000.00 during a fiscal year, in any event, are not subject to the Renegotiation Act by the very terms of the Act. I would assume that the prime contracting officer is well aware of this and would have indicated to subcontractors this fact if queried.

4. It is possible that some questions might be raised in the future due to the nature of the items being supplied under the subcontracts. Their nature might well be such that it would be reasonable to conclude that the prime's customer is a defense agency and subject to the Renegotiation Act. However, these possible queries can be left to a future date and for your information the Agency does have several persons cleared on the Renegotiation Board who could possibly be of assistance if required.

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Deputy General Counsel

OGC/JSW:mks

Orig & 1 - Addressee
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